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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,786	06/04/2001	Felix Yen	2657.2003-001	2843
21005 7590 09/14/2007 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			EXAMINER DUONG, OANH L	
			ART UNIT 2155	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/873,786		YEN ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Oanh Duong		2155	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20-37 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-37 and 39-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 1-18, 20-37, 39-46 are presented for examination.  
Claims 19, and 38 have been canceled.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 45-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The feature "comparing the collected short-term viewership activity data with a compressed version of the long-term viewership activity data" found no support by application's specification. Applicant indicated that support for above feature can be found at least on page 10 lines 9-16 of the specification. However, specification in page 10 lines 9-16 only define "compressed version of the long term activity is transmitted" and "correlates the short term activity 420 with the long term activity 430". None of the text described in page 10 lines 9-16 of the specification supports "comparing the collected short-term viewership activity data with a compressed version of the long-term viewership activity data".

For purpose of examination, examiner interprets the above feature as "correlates the short term activity with the long term activity" as defined in applicant's specification.

In the remarks, applicants referred to Fig. 3B, box 440 for the above feature, however, box 440 in Fig. 3B only shows "DETERMINE INDIVIDUAL WATCHING AT A PARTICULAR TIME". Box 440 does not show how individual watching is determined or "comparing the collected short-term viewership activity data with a compressed version of the long-term viewership activity data, therefore, the claimed limitation has been interpreted in light of specification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18, 20-37, 39-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (Maissel) (US 6,637,029) in view of Grauch et al. ("Grauch"), US 6,983,478 B1, and Barrett et al. (Barrett) (WO 01/22731 A1).

Regarding claim 26, Maissel teaches method for generating and using viewership profiles to facilitate distributing promotions based on the profiles of at least one network device (Fig. 8A-8B and abstract), comprising:

collecting viewership activity data for a network device (*i.e., receives television viewing behavior of one or more individual viewers, col.11 lines 56-44*);

correlating the viewership activity data with program schedule to determine a viewer behavior associated with the network device (*col. 11 line 48-co. 12 line 34*);

generating a viewership profile for the network device based on the correlation (*a viewer preference profile is generated by storing the current program characteristics in a viewer preference profile, col. 12 lines 12-34*);

forwarding the viewership profile to the network device (*col. 15 line 55-col. 16 line 4: Maissel discloses viewer preference profile is sent/forwarded to the program schedule customization apparatus*), the viewership profile including long-term viewership activity data of the network device (*col. 12 lines 16-34: Maissel discloses the viewer profile comprises viewing information over a period of time, for example, a year or more*);

collecting short-term viewership activity data of the network device (*col. 12 lines 16-34: Maissel discloses viewer profile comprises information obtained/collected over a period of time, wherein the period of time may be as short as a few minutes*).

Maissel does not matching the determined viewer behavior to a group profile to determine a class of viewer associated with the network device, the generated viewership profile including the viewer behavior associated with the network device

and the class of viewer associated with the network device, and comparing the collected short-term viewership activity data with the long-term viewership activity data of the viewership profile in order to determine a type of individual presently interacting with the network device, and determined type of individual used to match the viewership profile with a membership criteria to generate a promotion group for distributing promotions.

Grauch, in the same field of endeavor, teaches matching the determined viewer behavior to a group profile to determine a class of viewer associated with the network device, the generated viewership profile including the viewer behavior associated with the network device and the class of viewer associated with the network device (col. 21 lines 17-24 and lines 41-54), determined type of individual used to match the viewership profile with a membership criteria to generate a promotion group for distributing promotions (col. 2 lines 30-34 and col. 21 lines 17-54). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Maissel to match the determined viewer behavior to a group profile to determine a class of viewer associated with the network device, the generated viewership profile including the viewer behavior associated with the network device and the class of viewer associated with the network device, determined type of individual used to match the viewership profile with a membership criteria to generate a promotion group for distributing promotions as taught by Grauch. One would be motivated to do so provide more targeted advertising (Grauch, col. 2 lines 32-35).

Barrett, in the same field of endeavor, teaches comparing the collected short-

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term viewership activity data (*i.e., view actions since the beginning of the television viewing session*) with the long-term viewership activity data of the viewership profile (*i.e., data and information derived from profile(s)*) in order to determine a type of individual (*i.e., viewer*) presently interacting with the network device (*i.e., Remote Viewer Module*) (pages 4-5 step (h)). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Maissel to include steps of comparing the collected short-term viewership activity data with the long-term viewership activity data of the viewership profile in order to determine a type of individual presently interacting with the network device as taught by Barrett. One would be motivated to do so to allow viewer(s) of an advanced television to receive and view individualized television commercial(s) (Barrett, page 1).

Claim 1 represents a system that is parallel to claim 26. Claim 1 does not teach or define any new limitation above claim 26 and therefore is rejected for similar reasons.

Regarding claims 2 and 27, Maissel teaches the viewership activity data of the network device includes a program channel on the network device (col. 11 lines 60-61).

Regarding claims 3 and 28, Maissel teaches the viewership activity data includes a time at which the network device was tuned to the channel (col. 12 lines 16-34).

Regarding claims 4 and 29, Maissel teaches the viewership activity includes a time at which the network device was tuned away from the channel (col. 12 lines 26-45).

Regarding claim 5, 25, 30 and 44, Maissel teaches collecting viewership activity data collects viewership activity data if the difference between at time the

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network device was tuned to the channel and a time the network device was tuned away from the channel is greater than a configurable time period (col. 17 lines 17-44).

Regarding claims 6 and 31, Maissel teaches collecting viewership activity data is performed over a twenty-four hour period (col. 12 lines 26-31).

Regarding claims 7 and 32, Maissel teaches the viewership activity data includes a program viewed by a viewer (col. 11 lines 59-61).

Regarding claim 8, Maissel teaches the viewership activity data provides a percentage of time the program was viewed by the viewer (col. 12 lines 35-41 and col. 17 lines 24-38).

Regarding claim 9, Maissel teaches wherein the percentage of time is precise to within about one percent (col. 17 lines 24-38).

Regarding claim 10, Maissel teaches the program belongs to a genre (col. 11 lines 7-37).

Regarding claim 11, Maissel teaches the viewership activity data provides a percentage of time which the genre is viewed (col. 12 lines 38-41).

Regarding claim 12, Maissel teaches the percentage of time is precise to within about one percent (col. 17 lines 24-38).

Regarding claim 13, Maissel teaches the program belongs to multiple genres (col. 11 lines 7-32).



Regarding claims 14 and 33, Maissel-Grauch-Barrett teaches the viewership profile data is matched with a group profile (Grauch, col. 22 lines 47-48).

Regarding claims 15 and 34, Maissel-Grauch-Barrett teaches matching to the group profile based on viewer attributes (Grauch, co. 21 lines 17-24)

Regarding claims 16 and 35, Maissel-Grauch-Barrett teaches the attributes include a geographic location (Grauch, col. 21 line 21).

Regarding claims 17 and 36, Maissel-Grauch-Barrett teaches the attributes include demographic characteristics (Grauch, col. 21 line 21).

Regarding claims 18 and 37, Maissel teaches the attributes include a genre of programs (Maissel, col. 11 lines 30-32).

Regarding claims 20 and 39, Maissel teaches the short-term viewership activity spans over a time period of about one minute (col. 17 lines 32-34).

Regarding claims 21 and 40, Maissel teaches the short-term viewership activity spans over a time period of about one hour (col. 17 lines 17-44).

Regarding claims 22 and 41, Maissel teaches the viewership profile includes viewership activity data spanning a time period of about four weeks (col. 12 lines 16-34).

Regarding claims 23 and 42, Maissel teaches wherein the viewership profile includes viewership activity data spanning a time period of about eight weeks (col. 12

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lines 16-34).

Regarding claims 24 and 43, Maissel teaches the viewership profile includes viewership activity data spanning a time period of about twelve weeks (col. 12 lines 16-34).

Regarding claims 45-46, those claims recite limitations that are substantially the same as claim 26, discussed above, same rationale of rejection is applicable.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-18, 20-37, 39-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



O. Duong  
Primary Examiner  
September 12, 2007